

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-974-2024 (O&M)
Date of decision : 23.04.2024

State Bank of India and anotherAppellants
Versus
Om Prakash DhingraRespondent

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Ms. Madhu Dayal, Advocate, for the appellants.

Mr. Raj Kaushik, Advocate, and
Mr. Piyush Aggarwal, Advocate, for the caveator – respondent.

G.S. SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

The consideration in the present appeal is to the order dated 12.02.2024 passed in CWP-28037-2013, whereby the learned Single Judge has set aside the order dated 01.04.2013 (Annexure P-16), vide which the request of the writ petitioner (respondent herein) for consideration of his retrospective promotion was rejected.

2. The reason, which weighed with the General Manager of the appellant bank while passing the order dated 01.04.2013, was that there was a Debarment Policy as such that the eligible officers who have been penalized but whose results are not kept in sealed cover are not eligible for consideration of promotion until the amount of pecuniary loss is fully recovered. Accordingly, the loss being recovered from the writ petitioner on 02.02.2001, the appellant bank came to the conclusion that he was not eligible for promotion prior to the said date.

3. The learned Single Judge, while allowing the writ petition, noticed that the matter of the writ petitioner was kept in sealed cover and he was not extended benefit of promotion with effect from 01.11.1997. He again

became eligible for promotion in the year 1998 and 1999, but was not considered for promotion because recovery of loss was effected on 02.02.2001. It is to be noticed that the inquiry against the writ petitioner was initiated in the year 2000 and he was subjected to punishment on 17.01.2001. It was also noticed that the loss allegedly caused by the writ petitioner was minuscule and, therefore, he could not be denied promotion twice or thrice. Resultantly, it was observed that the findings recorded by the appellant bank were not convincing and not based upon any statutory provision. The learned Single Judge held that the appellant bank, as per its whims and caprices, denied promotion to the writ petitioner more than once and, thus, set aside the order dated 01.04.2013 and allowed the writ petition, wherein the relief claimed was for deemed promotion from JMGS-I to MMGS-II.

4. Learned counsel for the appellant has vehemently submitted that it is a case of delay and laches as the writ petition had been filed in the year 2013, whereas the cause of action had arisen in the year 2001.

5. We are of the considered opinion that the writ petitioner had initially approached this Court by way of CWP No. 8168 of 2012, immediately after his retirement in the year 2012. It would be clear from order dated 03.05.2012 (Annexure P-15) passed therein that a direction was issued to the appellant bank to look into the representation of the writ petitioner and thereafter, the order dated 01.04.2013 came to be passed, which was subject matter of consideration before the learned Single Judge.

6. The writ petition, apparently, was admitted for regular hearing and came to be decided only on 12.02.2024 and, therefore, we are of the considered opinion that to deny the fruits of litigation to the writ petitioner at this stage would be miscarriage of justice. The learned Single Judge has

already noticed that the order of punishment was passed only on 17.01.2001 and the amount of loss was deposited immediately on 02.02.2001. The order of punishment to recover a sum of Rs. 1,402/- was passed by an officer sitting in his office at Chandigarh, whereas the writ petitioner was posted at Ludhiana. Obviously, the order would have taken time to be communicated. The clause itself talks of that the promotion can only be denied till the recovery is made. A perusal of the order dated 29.02.2000 (Annexure P-3) initiating minor penalty proceedings would go on to show that the allegations were of the year 1997 and the order, as noticed, of punishment was passed on 17.01.2001. Therefore, for the bank’s own inaction for all these long years, the writ petitioner could not have been prejudiced.

7. In such circumstances, we are of the considered opinion that the appeal of the bank is not liable to be entertained. The only clarification we want to make is that since the writ petitioner was seeking deemed promotion and the learned Single Judge has allowed the writ petition. The only benefit which can be granted is that the appeal is disposed of with a direction to the appellant bank to consider the case of the respondent, keeping in view the observations made above.

8. Needful be done within a period of two months.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

April 23, 2024
ndj

Whether speaking/reasoned	Yes
Whether reportable	No